

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC VERIFIED JOINT APPLICATION)	
OF EASTERN ROCKCASTLE WATER)	
ASSOCIATION, INC. AND KENTUCKY-)	CASE NO.
AMERICAN WATER COMPANY FOR THE)	2017-00383
TRANSFER OF CONTROL AND ASSETS)	

ORDER

On October 17, 2017, the Commission entered an Order in this case establishing a procedural schedule that required a request for a formal hearing or a statement that the case may be submitted based on the existing record to be filed no later than December 8, 2017. On December 8, 2017, Kentucky-American Water Company (“Kentucky American”) and Eastern Rockcastle Water Association, Inc. (“Eastern Rockcastle”) (collectively, “Joint Applicants”), filed a joint statement that a formal hearing was not necessary and that this matter should be submitted to the Commission for a ruling. The Joint Applicants asserted that the record was complete and sufficient for the Commission to render a decision.

On December 8, 2017, James E. Ballinger and Thomas P. Dupree, Jr. (collectively, “Intervenors”), through counsel, filed their Statement Regarding Hearing, Motion to Admit Documents into Evidence, and Motion for Briefing Schedule, (“Intervenors’ Motions”). In support of their motions, the Intervenors request that in lieu of a hearing, the Commission allow documents that may be relevant to the case to be entered into the record. The

Intervenors further request permission to file written briefs within a reasonable time to address whether the proposed transfer of control meets the appropriate legal standards.

On December 13, 2017, Joint Applicants filed a Response to the Intervenors' Motions, arguing that the Intervenors should not be able to admit extraneous evidence into the record, and that the documents may not be relevant to the pending case. Joint Applicants further argue that in order to conserve time and resources the Commission should not allow briefing in this case. However, Joint Applicants state that if the Commission allows briefs to be filed, then the briefs should be submitted on the same date, and they will submit a brief to ensure that the Intervenors do not distort the record.

On December 15, 2017, the Intervenors filed a Reply to Joint Applicants' Response and stated that by opposing written briefs, the Joint Applicants were "merely seeking to suppress voices of opposition by any means necessary."¹ The Intervenors further argued that it would be a violation of due process not to allow the Intervenors an opportunity to be heard in this matter, and that a written brief would provide an opportunity for the Intervenors to be heard in a meaningful way. The Intervenors conclude that the evidence that they are requesting to admit into the record consists of public records.

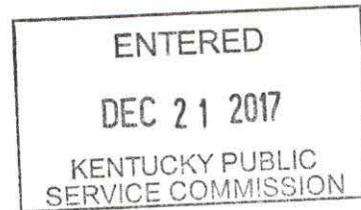
The Commission, having considered the Intervenors' Motions, the Joint Applicants' Response, as well as the Intervenors' Reply, finds that good cause exists to grant the Intervenors' Motions. The Intervenors and Joint Applicants have until December 29, 2017, to file simultaneous briefs in the pending case, at which point the case will be submitted on the record for a decision. The remainder of the October 17, 2017 Order will remain in effect.

¹ Reply By James E. Ballinger and Thomas P. Dupree, Jr., (filed Dec. 15, 2017) at 1.

IT IS HEREBY ORDERED that:

1. The Intervenors' Motions are granted.
2. All other provisions of the Commission's October 17, 2017 Order that are not in conflict with this Order are still in place.
3. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

By the Commission



ATTEST:


Executive Director

Case No. 2017-00383

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